No. 88-64

Supreme Court, U.S.
FILED
NOV 23 1988
JOSEPH F. SPANIOL, JR.

In the Supreme Court of the United States

OCTOBER TERM, 1988

STATE OF MISSOURI, et al.,
Petitioners,

vs.

KALIMA JENKINS, et al.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

JOINT APPENDIX

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Petition for Certiorari Filed July 5, 1988
Certiorari Granted October 11, 1988

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The following opinions, decisions, judgments, and orders have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the printed Petition for Certiorari:

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Order of the Court of Appeals for the Eighth Circuit, January 29, 1988 ..... A2

Order of the District Court for the Western District of Missouri, May 11, 1987 ..... A22

Order of the District Court for the Western District of Missouri, July 14, 1987 ..... A44

Order of the Court of Appeals for the Eighth Circuit, December 5, 1986 ..... A50

Order of the District Court for the Western District of Missouri, September 17, 1984 ..... A171

Order of the District Court for the Western District of Missouri, June 5, 1984 ..... A216

RELEVANT DOCKET ENTRIES

Date	NR.	Proceedings
1977		
May 26		COMPLAINT - with JS-44c - filed. (Sixty-seven summonses issued and delivered to the U. S. Marshal). Plt. $15.00
1979		
**Mar 14		DOCKET ENTRY OUT OF SEQUENCE.
Mar 15		Entry of Appearance - filed. (Arthur A. Benson II enters appearance as attorney for Margaret Stark and Catherine Stark by their next friend, Dorothy Hodge Johnson.)
Mar 30		NOTICE OF WITHDRAWAL - as Attorneys for Plaintiffs, filed. (James Borthwick, Shirley Keeler, Taylor Fields, and Robert Manley hereby withdraw as attorneys for Margaret and Catherine Stark, Arthur Benson, II having previously entered his appearance for these plaintiffs.
May 18	22	PLAINTIFFS' FIRST AMENDED COMPLAINT-for declaratory and injunctive relief- filed.
1982		
5/27/82	18	ENTRY - of appearance, of Jack Greenberg, James M Nabritt III, Lowell Johnston, James S. Liebman Steven L Winter and Theodore M. Shaw and

Date	NR.	Proceedings
		enter their appearance as counsel of record for the plaintiffs.
5/27/82	19	ENTRY - of appearance, of Richard L routman and Charles Thomas (for planintiffs.)
1983		
*Oct. 31	562	MINUTE SHEET - first day of trial.
*Nov. 1	563	MINUTE SHEET - second day of trial
*Nov. 2	564	MINUTE SHEET - third day of trial
Nov. 3	565	MINUTE SHEET - fourth day of trial
11/4/83	571	MINUTE SHEET - fifth day of court trial.
11/6/83	572	MINUTE SHEET - sixth day of court trial
11/7/83	573	MINUTE SHEET - Seventh Day of Court trial.
11/9/83	575	MINUTE SHEET - of Eighth day of court trial.
11/10/83	576	MINUTE SHEET - of ninth day of court trial.
11/14/83	581	MINUTE SHEET - of tenth day of court trial.
11/15/83	582	MINUTE SHEET - of elventh day of court trial.
11/16/83	585	MINUTE SHEET - of Twelfth day of court trial.

Date	NR.	Proceedings
11/17/83	586	MINUTE SHEET - 13th day of court trial.
11/28/83	592	MINUTE SHEET - 14th day of court trial.
11/29/83	593	MINUTE SHEET - 15th day of court trial.
11/30/83	594	MINUTE SHEET - 16th day of court trial.
12/1/83	595	MINUTE SHEET - 17th day of court trial.
12/5/83	598	MINUTE SHEET - 18th day of court trial.
12/6/83	602	MINUTE SHEET - of 19th day of court trial.
12/7/83	615	MINUTE SHEET - 20th day of court trial.
12/8/83	616	MINUTE SHEET - 21st day of court trial.
12/12/83	617	MINUTE SHEET - 22nd day of court trial.
12/13/83	620	MINUTE SHEET - of 23rd day of court trial.
12/14/83	621	MINUTE SHEET - of 24th day of court trial.
12/15/83	623	MINUTE SHEET - of 25th day of court trial
12/19/83	624	MINUTE SHEET - of 26th day of court trial.
12/20/83	629	MINUTE SHEET - of 27th day of court trial.
1984		
1/3/84	636	MINUTE SHEET - 28th day of court trial.
1/4/84	637	MINUTE SHEET - 29th day of court trial.

Date	NR.	Proceedings
*1/5/84	641	MINUTE SHEET - 30th day of court trial.
*1/6/84	642	MINUTE SHEET - 31st day of court trial.
*1/9/84	643	MINUTE SHEET - 32nd day of court trial.
*1/10/84	644	MINUTE SHEET - 33rd day of court trial.
*1/11/84	645	MINUTE SHEET - 34th day of court trial.
*1/12/84	646	MINUTE SHEET - 35th day of court trial.
1/16/84	647	MINUTE SHEET - 36th day of court trial.
1/17/84	648	MINUTE SHEET - 37th day of court trial.
1/18/84	650	MINUTE SHEET - 38th day of court trial.
1/19/84	652	MINUTE SHEET - 39th day of court trial.
1/23/84	660	MINUTE SHEET - 40th day of court trial.
1/24/84	665	MINUTE SHEET - of 41st day of trial.
1/25/84	667	MINUTE SHEET - 42nd day of court trial.
1/26/84	668	MINUTE SHEET - 43rd day of court trial.
1/30/84	671	MINUTE SHEET - 44th day of court trial.
1/31/84	672	MINUTE SHEET - 45th day of court trial.
2/1/84	673	MINUTE SHEET - 46th day of court trial.
2/2/84	674	MINUTE SHEET - 47th day of court trial. (In open court plaintiff's motion to add Robert Murphy to witness list is denied. In open court plaintiff's motion to complete the testimony of Wm. A. Cleaver is denied.)
2/6/84	679	MINUTE SHEET - 48th day of court trial.

Date	NR.	Proceedings
2/7/84	680	MINUTE SHEET - 49th day of court trial.
2/8/84	681	MINUTE SHEET - 50 th day of court trial.
2/9/84	682	MINUTE SHEET - 51st day of court trial.
2/13/84	687	MINUTE SHEET - of 52nd day of court trial
2/14/84	688	MINUTE SHEET - of 53rd day of court trial
2/15/84	689	MINUTE SHEET - of 54th day of court trial.
2/16/84	697	MINUTE SHEET - of 55th day of court trial. Plaintiff's motion for protective order argued in open court. Motion DENIED on the record at 3: 50 p.m.
2/21/84	703	MINUTE SHEET - 56th day of court trial.
2/22/84	705	MINUTE SHEET - 57th day of court trial.
2/23/84	706	MINUTE SHEET - 58th day of court trial
2/27/84	707	MINUTE SHEET - 59th day of court trial. Defendant U.S. Dept of Education's motion in limine filed on 2/9/84 sustained in open court on the record at 10:00 a.m.
2/27/84	711	MINTUE SHEET - 60th day of court trial
2/29/84	713	MINUTE - sheet 61st day of court trial.
3/1/84	756	MINUTE SHEET - of 62nd day of court trial.
3/5/84	780	MINUTE SHEET - 63rd day of court trial.

Date	NR.	Proceedings
3/6/84	806	MINUTE SHEET - 64th day of court trial. PLAINTIFFS REST AT 10:37 a.m. Various motions filed.
3/7/84	887	MINUTE SHEET - 65th day of court trial. KCMSD begins presenting testimony and evidence.
3/8/84	894	MINUTE SHEET - 66th day of trial Defendant KCMSD presenting evidence.
3/12/84	916	MINUTE SHEET - of the 67th day of court trial. KCMSD presenting evidence on counterclaim.
3/13/84	933	MINUTE SHEET - 68th day of court trial. KCMSD presenting evidence on counterclaim and rests.
4/2/84	972	MINUTE SHEET - 69th day of court trial. Opening statements by Mr Marshal for the state of Missouri. Defendant State of Mo presenting evidence.
4/3/84	973	MINUTE SHEET - 70th day of court trial.
4/4/84	974	MINUTE SHEET - 71th day of court trial.
4/5/84	975	MINUTE SHEET - 72st day of court trial.
4/9/84	976	MINUTE SHEET - 73nd day of court trial.
4/10/84	980	MINUTE SHEET - 74rd day of court trial.
4/11/84	981	MINUTE SHEET - 75th day of court trial.
4/12/84	982	MINUTE SHEET - 76th day of court trial
4/16/84	984	MINUTE SHEET - 77th day of court trial.

Date	NR.	Proceedings
4/17/84	985	MINUTE SHEET - 78th day of court trial.
4/18/84	986	MINUTE SHEET - 79th day of court trial.
5/2/84	993	STATEMENT - of Visiting Attorney and Entry of Appearance as additional counsel for plaintiffs. (C. Stephen Ralston -NAACP Legal Defense and Education Fund 99 Hudson St, New York, New York 10013)
5/7/84	994	MINUTE SHEET - 80th day of court trial. Opening statement by Ms. Berkley for Federal Defendants, and Federal defendants present evidence.
5/8/84	995	MINUTE SHEET - 81st day of court trial
5/9/84	996	MINUTE SHEET - 82nd day of court trial.
5/10/84	997	MINUTE SHEET - 83rd day of court trial.
5/14/84	998	MINUTE SHEET - 84th day of court trial. (FEDERAL DEFENDANTS RESTS at 12:19 p.m.)
5/16/84	999	MINUTE SHEET - 85th day of court trial. Plaintiff makes oral motion for sanciont re: HUD which is denied by the court and and an oral motion re; protective order CRA, which is denied in open court. State defendants rests at 10:47 p.m. Plaintiff and KCMSD begin joint rebuttal testimony.
5/17/84	1000	MINUTE SHEET - 86th day of court trial.
5/21/84	1002	MINUTE SHEET - 87th day of court trial.

Date	NR.	Proceedings
5/22/84	1003	MINUTE SHEET - 88th day of court trial
06/05	1004	ORDER - GENERAL MEMORANDUM AND ORDER. ORDERED that the Rule 41(b) motions filed by the following school districts & their superintendents are granted: Blue Springs Reorganized School District R-IV, Center School District No. 58, Fort Osage Reorganized School District R-1, Grandview Consolidated School District No. 4, Hickman Mills School District, Independence School District, Lee's Summit Reorganized School District R-VII, Liberty School District, North Kansas City School District, Park Hill Reorganized School District No. 5, and the Raytown Consolidated School District No. 2.
*5/29/84	1006	MINUTE SHEET - of 89th day of court trial.
5/30/84	1007	MINUTE SHEET - of 90th day of court trial.
5/31/84	1008	MINUTE SHEET - of 91st day of court trial. Plaintiff's have no further rebuttal evidence, and Deft KCMSD has no further rebuttal evidence.
6/13/84	1016	MINUTE SHEET - 92nd day of court trial. State of Mo presents surrebuttal testimony. Trial Adjourned.

Date	NR.	Proceedings
6/21/84	1018	ORDER - filed, mailed. (ORDERED that the judgment of June 11, 1984 is recalled and the order of June 5, 1984 is amended so that final judgment dismissing the suburban school districts shall issue when all claims are resolved and this court's final opinion is rendered.)
9/17/84	1023	ORDER - filed, mailed. (ORDERED that the Clerk is directed to enter judgment on the issue of liability in favor of HUD and against plaintiffs; in favor of plaintiffs and against the State defendants and the KCMSD; and in favor of the KCMSD and against the State defendants on its cross-claim; and it is further ORDERED that within 90 days from the date of this order, the State Board of Education and the KCMSD board of Education are directed to submit a proposed plan which will have the effect of removing the vestiges of the dual school system as it presently exists in the KCMSD: and it is further ORDERED that plaintiffs shall have 30 days after the proposed plan is filed in which to file objections to it.)
1985		
4/29/85	1084	MINUTE SHEET - 1st day of remedy hearing. Parties appear and are ready for hearing. Plt by Arthur Benson and James Liebman. Kansas City School District by James Borthwick and Shirley Keeler. State of Missour by Bruce Farmer, B. Farr, J. Klein, P. Huber and R. Toranto. Teachers Union by Michael Gordon. KCMSD presents textimony and evidence. Hearing continued to 4/30/85 at 8:30 a.m.

Date	NR.	Proceedings
4/30/85	1086	MINUTE SHEET - 2nd day of remedy hearing. KCMSD presenting testimony and evidence. Hearing continued to 5/1/85 at 8:30 a.m.
5/1/85	1087	MINUTE SHEET - 3rd day of remedy hearing. KCMSD Presnting testimony and evidence. Hearing continued to 5/2/85 at 8:30 a.m.
5/2/85	1088	MINUTE SHEET - 4th day of remedy hearing. KCMSD Presenting case and concludes. State of Mo begins presenting evidence and testimony. Hearing continued to 5/6/85 at 8:30 a.m.
5/6/85	1089	MINUTE SHEET - 5th day of remedy hearing. State still presenting case. Hearing continued to 5/7/85 at 8:30 a.m.
5/7/85	1091	MINUTE SHEET - 6th day of remedy hearing. State still presenting evidence. Hearing continued to 5/8/85 at 8:15 a.m.

Date	NR.	Proceedings
5/8/85	1092	MINUTE SHEET - 7th day of remedy hearing. State presents evidence and concludes at 1:41 p.m. Plaintiffs - opening statement by Mr Liebman and presents evidence. Hearing continued to 5/9/85 at 8:30 a.m.
5/9/80	1093	MINUTE SHEET - 8th day of remedy hearing. Plaintiff still presenting case. Plaintiff rests at 5:12 p.m. Hearing continued to 5/10/85 at 8:30 a.m.
5/10/85	1094	MINUTE SHEET - 9th day of remedy hearing. KCMSD Has rebuttal testimony. closing argument by State of Mo. KCMSD Local 91 and Plaintiffs. Court is adjourned.
6/14/85	1110	MEMORANDUM - opinion (re- remedy) Copies distributed.
1986		
2/5/86	1154	MOTION - for partial award of attorneys' fees & expenses, w/suggestions (by plts).
2/11/86	1156	MOTION - for partial interim award of attorneys' fees & expenses, w/memorandum & affidavits - plt.
2/20/86	1157	RESPONSE - to plts' request for an immediate ward of attorneys' fees - state dfts.
2/24/86	1158	ORDER - that Mr. Arthur Benson, II, is entitled to an immediate award as

Date	NR.	Proceedings
		partial payment of attorney's fees in the amount of $200,000.00 to be paid by the state dfts; - that the immediate award of $280,-000.00 in partial payment to the NAACP Legal Defense Fund, Inc. is presently denied without prejudice. Mailed (#1156)
5/14/86	1170	MOTION - for extension of time in which to file their response to plts' request for attorneys' fees - state dfts.
5/20/86	1174	ORDER - that the State of Missouri shall, on or before 6/2/86, pay to Arthur A. Benson, II, the sum of $100,000.00 as partial attorneys fees in this case. - that the State of Missouri shall file its response to the pending applications for attorneys fess & expenses on or before 6/17/86. Mailed.
6/11/86	1191	SUPPLEMENTAL APPLICATION - for fees & expenses - plts.
6/17/86	1193	RESPONSE - to plts' motions for attorneys' fees - state dfts.
6/20/86	1198	RESPONSE - to plts' supplemental application for fees & expenses - state dfts.
6/30/86	1199	MOTION - for immediate interim award of undisputed attorneys' fees costs,

Date	NR.	Proceedings
		w/memorandum - plts NAACP Legal Defense & Education Fund, Inc.
6/30/86	1200	MOTION - for immediate interim award of undisputed attorney's fees costs, w/suggestions - plts.
7/1/86	1201	FINAL APPLICATION - for fees & expenses for the 1985-86 school year - plts.
7/2/86	1202	RESPONSE - to plts' motion for immediate interim award of undisputed attorney's fees & costs - state dfts.
8/1/86	1207	REPLY - to State's response filed 6/23/86 to plts' supplemental application for fees & expenses - plts.
9/19/86	1222	REPLY - to state dfts' response to plts' motions for attorneys' fees w/memorandum - plts.
9/19/86	1223	SUPPLEMENT - to original Benson fee application - plts.
9/22/86	1224	AFFIDAVIT - of John O. Ward in support of plts' motion for attorneys' fees.
9/22/86	1225	ORDER - On 9/19/86, a conference was held regarding plts' applications for fees & expenses. As a result, the State of Mo. was directed to advance Arthur Benson the agreed upon sum of $47,-332.93. This amount consists of:

Date	NR.	Proceedings
		Attorney's Fees
		$29,018.03 Unpaid balance of the $329,018.03 that the State admits is owed plts. Page 67 of the State Dfts' response to plts' motions for attorneys' fees filed 6/17/86.
		$16,583.50 Page 5 of State dfts' response to plt's supplemental application for fees & expenses filed 6/20/86.
		$ 1,731.40 Page 12 of State dft's response to plt's supplemental application for fees & expenses filed 6/20/86.
		Mailed.
1987		
*1/16/87	1253	CERTIFICATE - of service of plts' Supplemental Memorandum and Reply to State dfts' Response to plts' Motion for Attys' fees.
*1/16/87	1254	SUPPL. MEMORANDUM - And Reply to State dfts' Response to plts' Motion for attys fees by plts.
2/17/87	1266	REPLY - to plts' motions for attorneys' fees & expenses - State dfts.

Date	NR.	Proceedings
2/27/87	1274	MINUTE SHEET - of Hearing on Motion for Plts' Attorneys' fees. (Matter taken under advisement).
3/11/87	1280	TRANSCRIPT - of proceedings, taken on 2/27/87 on a hearing
3/13/87	1283	PROPOSED FINDINGS - of Fact and Conclusions of Law by plts.
3/13/87	1284	AFFIDAVITS - in support of Fee application fees by plts.
3/26/87	1292	POST-HEARING - of state dfts' Memorandum concerning atty's fees
3/26/87	1293	PROPOSED FINDINGS - of Fact and Conclusions of Law by state dfts.
5/11/87	1327	ORDER - filed, mailed. (ORDERED that the Court awards Mr. Benson $1,614.-437.43 in fees and expenses for services rendered by him and his staff from 1979 through June 30, 1986; and it is further ORDERED that the Court awards Mr. Benson $72,702.49 in fees and expenses incurred in litigating his fee application; and it is further ORDERED that because Mr. Benson has previously received $347,332.93 of this award, the balance due Mr. Benson is $1,339.806.99; and it is further ORDERED that the Court awards the LDF $2,323.730.60 in fees and expenses for services rendered through May of 1985; and it is further

Date	NR.	Proceedings
		ORDERED that the Court awards the LDF $42,145.14 for fees and expenses incurred in litigation its fee application; and it is further ORDERED that the State of Missouri dfts. are solely liable for the $4,053,015.66 in fees and expenses awarded by the Court, including the $347,332.93 the State has previously paid Mr. Benson; and it is further ORDERED that the KCMSD's motion for an award of attorney's fees and expenses is DENIED; and it is further ORDERED that AFT 691's motion for an award of attorney's fees and expenses is DENIED).
5/21/87	1338	MOTION - to Alter & Amend Judgment & Findings w/sugg - plt.
6/1/87	1346	RESPONSE - of State dfts. to plts' Motion to alter and amend judgment and findings
7/14/87	1369	ORDER - ORDERED that the plts motion to amend the Court's order of 5/11/87 regarding atty's fees is granted in part & denied in part as set forth in this order; & it is further ORDERED that the Court modifies the long-range magnet order 11/12/86 to include the extended day program at North Rock Creek & Korte Elementary Schools; & it is further ORDERED that the State of Missouri's motion to strike KCMSD's

Date	NR.	Proceedings
		Suggested Findings & Conclusions relating to the 1987-88 desegragation budget is DENIED Mailed.
8/3/87	1391	NOTICE - of appeal by the State Dfts. (#38707)
8/6/87	1398	NOTICE - of Cross-Appeal by plts.
08/11/87	1402	ORDER - filed, mailed; that the Court approves the $1,200,000.00 supersedeas bond filed by the State, thereby staying execution of those portions of the May 11, 1987 and July 14, 1987 orders which awarded fees and expenses to plaintiffs' counsel Arthur Benson; and it is further ORDERED that the plaintiffs' request that the Court condidtion any stay upon the partial payment of $1,-025,078.00 by the State is denied.
1988		
4/25/88	1601	JUDGMENT - from the 8th Circuit Court of Appeals. (ORDERED that the judgment of the district court is affirmed in accordance with the opinion of this Court).

(Filed October 11, 1988)

SUPREME COURT OF THE UNITED STATES

No. 88-64

Missouri, et al.,
Petitioners

vs.

Kalima Jenkins, by her friend,
Kasau Agyei, et al.

ORDER ALLOWING CERTIORARI

Filed October 11, 1988

The petition herein for a writ of certiorari to the United States Court of Appeals for the Eighth Circuit is granted limited to Questions 1 and 4 presented by the petition.

October 11, 1988